

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT  
BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, et al.,

Debtor.<sup>1</sup>

**PROMESA**

**Title III**

**No. 17 BK 3283-LTS  
(Jointly Administered)**

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT  
BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER AUTHORITY,

Debtor.

**PROMESA**

**Title III**

**No. 17 BK 4780-LTS  
(Jointly Administered)**

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566- LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

THE FINANCIAL OVERSIGHT AND MANAGEMENT  
BOARD FOR PUERTO RICO,

Plaintiff-Movant,

v.

HON. PEDRO PIERLUISI, in his official capacity as Governor of Puerto Rico; and HON. JOSE LUIS DALMAU, in his official capacity as President of the Senate of Puerto Rico.

Defendants-Respondents.

**Adv. Proc. No. 24-00062-LTS**

**NOTICE OF MOTION OF THE FINANCIAL OVERSIGHT AND MANAGEMENT  
BOARD FOR PUERTO RICO FOR SUMMARY JUDGMENT  
PURSUANT TO BANKRUPTCY RULE 7056**

To the Court, the Parties Hereto, and Their Respective Attorneys of Record:

**PLEASE TAKE NOTICE THAT**, upon this Notice, the Memorandum of Law in Support of the Financial Oversight and Management Board for Puerto Rico's Motion for Summary Judgment Pursuant to Bankruptcy Rule 7056; Statement of Uncontested Material Facts; Declaration of Robert F. Mujica, Jr. (with Exhibits), dated September 25, 2024; and the Declaration of Guy Brenner (with Exhibits) dated September 25, 2024, Plaintiff the Financial Oversight and Management Board for Puerto Rico (the "Oversight Board") moves this Court, before the Honorable Laura Taylor Swain, United States District Judge for the Southern District of New York, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Courtroom 17C, New York, New York on December 11, 2024 at 10 a.m. (Atlantic Standard time), or as soon thereafter as counsel is heard, for an order pursuant to Federal Rule of Civil Procedure 56 and Federal Rule of Bankruptcy Procedure 7056 granting summary judgment (the "Motion") in favor of the Oversight Board, and for such other and further relief as the Court may deem just and proper.

A proposed order granting the Motion is attached and marked as **Exhibit A** hereto.

This Motion is submitted in accordance with the Court's order setting an expedited briefing schedule [ECF No. 6]. Given the order, the Oversight Board respectfully submits no further consultation is required with opposing counsel.

*[Remainder of Page Intentionally Left Blank]*

Dated: September 25, 2024  
San Juan, Puerto Rico

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*Attorneys for the Financial Oversight  
and Management Board in its own  
right and as representative of the  
Puerto Rico Electric Power Authority*

**Exhibit A**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:

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BOARD FOR PUERTO RICO,

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566- LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

THE FINANCIAL OVERSIGHT AND MANAGEMENT  
BOARD FOR PUERTO RICO,

Plaintiff-Movant,

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HON. PEDRO PIERLUISI, in his official capacity as Governor of Puerto Rico; and HON. JOSE LUIS DALMAU, in his official capacity as President of the Senate of Puerto Rico.

Adv. Proc. No. 24-00062-LTS

Defendants-Respondents.

**[PROPOSED] ORDER GRANTING FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO'S MOTION FOR SUMMARY JUDGMENT PURSUANT TO BANKRUPTCY RULE 7056**

Upon consideration of *Notice of Motion of the Financial Oversight and Management Board for Puerto Rico For Summary Judgment Pursuant To Bankruptcy Rule 7056* (the “Motion”),<sup>2</sup> and all pleadings and admissible evidence submitted by all parties in respect of the Motion, and it appearing that (i) the Court has subject matter jurisdiction over the Motion pursuant to 28 U.S.C. § 1331, PROMESA §§ 106(a), 306(a)(2), and 306(b); (ii) venue of this proceeding and the Motion is proper under 28 U.S.C. § 1391(b) and PROMESA §§ 106(a) and 307; (iii) notice of the Motion was adequate and proper under the circumstances and that no further or other notice need be given; and (iv) a hearing having been held on \_\_\_\_\_, 2024 on due notice with all appearances noted in the record, and after due deliberation and sufficient cause appearing therefor, it is hereby

**ORDERED and DECREED:**

1. The Motion is **GRANTED** as set forth herein;

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

- a. Pursuant to sections 108(a)(2) and 104(k) of PROMESA, Act 10 is nullified, unenforceable, and of no effect because the Oversight Board determined it impairs or defeats PROMESA's purposes based on its finding that the law is directly contrary to the Commonwealth and PREPA fiscal plans;
  - b. Pursuant to sections 108(a)(2) and 104(k) of PROMESA, Act 10 is nullified, unenforceable, and of no effect because the Oversight Board determined it impairs or defeats PROMESA's purposes based on its finding that the Governor failed to comply with section 204(a) of PROMESA;
  - c. Pursuant to sections 204(a)(5) and 104(k) of PROMESA, Act 10 is nullified, unenforceable, and of no effect because the Governor failed to comply with the requirements of PROMESA § 204(a)(2) and then failed to comply with the Oversight Board's direction pursuant to PROMESA § 204(a)(4), and nullification is necessary to avoid the law adversely affecting Puerto Rico's compliance with the Commonwealth and PREPA fiscal plans;
2. Defendants are permanently enjoined from taking any acts to enforce or implement Act 10;
3. Defendants' affirmative defenses are hereby overruled; and
4. The Court shall retain jurisdiction to hear and determine all matters arising from implementation of this Order.

SO ORDERED.

Dated: \_\_\_\_\_, 2024.

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LAURA TAYLOR SWAIN  
United States District Court

**CERTIFICATE OF SERVICE**

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

*Miguel E. Gierbolini*  
Miguel E. Gierbolini